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Ho Soo Lee

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EXAMINER

BORLINGHAUS, JASON M

ART UNIT

PAPER NUMBER

3693

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/800,664	<b>Applicant(s)</b> LEE ET AL.	
	<b>Examiner</b> JASON M. BORLINGHAUS	<b>Art Unit</b> 3693	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/27/08 has been entered.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claims 14 and 27** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 states that a bid line corresponds to a bid. Claim 14 claims "displaying a count of bid lines associated with the at least one bid." As a bid line corresponds to one bid, how can a count of bid lines (i.e. a plurality of bid lines) be associated with a bid?

Claim 15 claims "displaying the counted number of bid lines in the graphical visual interface." Examiner assumes that the Applicant means that the bid lines that have been counted are displayed. Or does Applicant intend that just a number is displayed?

Claim 27 suffers from the same problem.

Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1 and 3 - 30** are rejected under 35 U.S.C. 103(a) as being unpatentable over Aycock (US Patent 5,765,138) in view of Light (US Patent 5,831,631), Jones (Jones, Everett Gerald. *How to Lie with Charts*. iUniverse. February 2000. pp. 62 – 67, 70 – 71, 85 – 87, 170, 175, 258 and 262) and Friesen (US Patent 6,993,504).

**Regarding Claim 19**, Aycock discloses a method of purchasing products and services over a network comprising the steps of:

- submitting a Request for Quotation (RFQ) with a plurality of attributes (vendor qualifications) over the network. (see col. 1, line 10 - col. 2, line 35);
- receiving a plurality of bids in response to the RFQ over the network, each of the plurality of bids having values for each of said plurality of attributes (requirements). (see col. 3, lines 23 - 35); and
- each of said plurality of bids being responsive to said RFQ. (see col. 1, line 10 – col. 2, line 35).

Aycock does not teach a method comprising the steps of creating a graphical visual interface based on a coordinate system having a plurality of equidistant, parallel axes with a separate one of the plurality of attributes identified with each respective one of the plurality of equidistant, parallel axes, and for each of said plurality of attributes there is a point along said respective parallel axis which reflects a corresponding attribute value for a respective attribute of each corresponding one of said plurality of bids, and where each of said plurality of bids is identified by a bid line which connects said plurality of corresponding attribute values for each corresponding bid, whereby the graphical user interface shows a relationship in a graphical format between attribute values of different attributes of different bids of said plurality of bids in a single display, tagging at least one bid line of the bid lines, wherein the tagged at least one bid line remains displayed on the graphical visual interface after a selected filtering operation.

Jones discloses a method comprising the steps of:

- creating a graphical visual interface (radar chart) having a plurality of axes with a separate one of the plurality of attributes (criteria) identified with each respective one of the plurality of axes. (see 85 - 87); and
- for each of said plurality of attributes (criteria) there is a point along said respective axis which reflects a corresponding attribute value (numeric value) for a respective attribute (criteria) of each corresponding one of said plurality of data sets. (see pp. 85 – 87); and

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- where each of said plurality of data sets is identified by a line (line plot) which connects said plurality of corresponding attribute values (numeric values) for each corresponding data set. (see pp. 85 – 87); and
- whereby the graphical user interface (radar chart) shows a relationship in a graphical format between attribute values (numeric values) of different attributes (criteria) of different data sets of said plurality of data sets in a single display. (see pp. 85 – 87, especially fig. 5.4).

Light discloses a method comprising the steps of:

- creating a graphical visual interface (iconic graph) having a plurality of equidistant, parallel axes with a separate one of the plurality of attributes (metrics) identified with each respective one of the plurality of equidistant, parallel axes. (see fig. 5; col. 7, lines 29 – 35); and
- for each of said plurality of attributes (metrics) there is a point along said respective parallel axis (top of axis) which reflects a corresponding attribute (metric) value for a respective attribute (metric); (see fig. 5; col. 7, lines 29 – 35).

Friesen discloses a method comprising the steps of:

- tagging (highlighting) at least one bid line (book axis) of the bid lines (book axes), wherein the tagged (highlighted) at least one bid line (book axis) remains displayed on the graphical visual interface after a selected filtering operation. (see col. 23, lines 40 -60).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Aycock by incorporating graphing capabilities, as disclosed by Light and Jones, allowing for graphical communication of RFQ attribute information, as disclosed by Aycock.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Aycock, Light and Jones by incorporating the filtration of information, as disclosed by Friesen, allowing for retrieval of the most pertinent information for the user.

**Regarding Claim 20**, Aycock does not teach a method further comprising the steps of untagging the at least one bid line; and removing the untagged at least one bid line from the graphical visual interface in response to the selected filtering operation.

Friesen disclose a method further comprising the steps of untagging (unhighlighting) at least one bid line (book axis) in response to the selected filtering option. (see col. 23, lines 40 - 60).

Friesen does not explicitly state the removal of the untagged at least one bid line from the graphical user interface, although Friesen does disclose the interface can be configured to bid lines (book axes) for specific companies. (see col. 24, lines 11 – 13).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Aycock, Light, Jones and Friesen by incorporating the ability to remove irrelevant information, as disclosed by Friesen, allowing for the interface to show only the most pertinent information for the user.

**Regarding Claim 21**, Aycock does not teach a method further comprising the step of providing information pertinent to the tagged at least one bid line.

Light discloses a method further comprising the step of providing information (table) pertinent to the tagged at least one bid line (on the iconic graph). (see fig. 5; col 7, lines 29 – 35).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Aycock, Light, Jones and Friesen by incorporating display capabilities, as disclosed by Light, allowing for display of pertinent information for the user.

**Regarding Claim 1**, such claim recites substantially similar limitations as claimed in previously rejected claims. Such claim limitations are therefore rejected using the same art and rationale as previously utilized.

**Regarding Claim 3**, Aycock discloses a method wherein the information is one of a general information (maturity level) and detailed information (on-site audit) related to at least one bid of said plurality of bids. (see abstract).

**Regarding Claims 4 - 10**, Aycock does not teach a method further comprising selecting a portion of a bid line; and retrieving the general or detailed information from a database, the general or detailed information being pertinent to the bid line; wherein the retrieved general information is provided in a window adjacent the bid line; creating a display separate from the graphical visual interface; and displaying the detailed information in the separate display; wherein the detailed information is rendered in one



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of text, image, audio, sound, video, graphs and animation; nor wherein the information is attribute information associated with one bid line;.

Light discloses a method further comprising:

- selecting a portion of a bid line (iconic graph); (see fig. 5; col 7, lines 29 – 35);
- retrieving the general or detailed information (table) from a database, the general or detailed information being pertinent to the bid line (iconic graph). (see fig. 5; col 7, lines 29 – 35);
- wherein the retrieved general information (table) is provided in a window (table) adjacent the bid line. (see fig. 5; col 7, lines 29 – 35);
- creating a display (table) separate from the graphical visual interface (iconic graph). (see fig. 5, col. 7, lines 29 - 35); and
- displaying the detailed information in the separate display (table). (see fig. 5, col. 7, lines 29-35);
- wherein the detailed information (table) is rendered in one of text, image, audio, sound, video, graphs and animation. (see fig. 5, col. 7, lines 29-35); and
- wherein the information is attribute information (metrics) associated with one bid line (iconic graph). (see fig. 5, col. 7, lines 29-35).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Aycock, Light, Jones and Friesen by incorporating

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display capabilities, as disclosed by Light, allowing for display of pertinent information for the user.

**Regarding Claims 11 – 15**, such claims recite substantially similar limitations as claimed in previously rejected claims. Such claim limitations are therefore rejected using the same art and rationale as previously utilized.

**Regarding Claims 16 – 18**, Aycock does not teach a method further comprising the steps of enlarging or reducing a portion of the graphical visual interface; wherein the enlarging or reducing steps show portions of bid lines; nor scrolling the graphical visual interface in a desired direction.

Friesen discloses a method further comprising:

- the steps of enlarging or reducing a portion of the graphical visual interface. (see col. 2, line 51 – col. 3, line 15);
- wherein the enlarging or reducing steps show portions of bid lines. (see col. 2, line 51 – col. 3, line 15); and
- scrolling the graphical visual interface in a desired direction. (see col. 15, lines 13 - 43).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified Aycock, Light, Jones and Friesen by incorporating display capabilities, as disclosed by Friesen, allowing for display of pertinent information for the user.

**Regarding Claims 22 - 30**, such claims recite substantially similar limitations as claimed in previously rejected claims. Such claim limitations are therefore rejected using the same art and rationale as previously utilized.

### ***Response to Arguments***

Applicant's arguments filed 11/19/08 have been fully considered but they are not persuasive.

### **§112, 2<sup>nd</sup> Paragraph, Rejection**

Despite Applicant's explanation of the claim language through referencing of application drawings, the claim language needs to be corrected to stand on its own.

Furthermore, the §112 rejection still stands, as there remains 112 issues despite the amended claim language.

Claim 14 claims "the step of displaying a count of the number of bid lines associated with the at least one bid, there being one bid line for each bid, the count being displayed on the graphical visual interface."

According to the claim language there is "one bid line for each bid". The claim language also states that the method displays "a count of the number of bid lines associated with the at least one bid." However, as one bid line is assigned to each bid, then the count of the number of bid lines associated with the at least one bid would be one. Examiner assumes that such a claim interpretation is not the goal of the Applicant.

Furthermore, displaying a count of bid lines, in its broadest sense, is not necessarily equivalent to displaying a numerical indicator of the total number of bids displayed on the graphical visual interface. For example, the radar graph in Jones displays a count, albeit not through display of a numerical indicator, of the data sets displayed on the graphical visual interface. The radar graph displays a count of data sets on the graphical user interface.

### **§103 Rejection**

Applicant states that “[i]t is not clear why the Examiner believes Aycock is related to the claimed invention.”

Examiner asserts that the prior art reference, specifically Aycock, is valid under the analogous arts test. The Courts have stated that to be utilized “as a basis for rejection of the applicant's invention, the reference must either be in the field of the applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned.” *In re Oetiker*, 977 F.2d 1443, 1447 (Fed. Cir. 1992). As such “it is necessary to consider “the reality of the circumstances” -- in other words, common sense -- in deciding in which fields a person of ordinary skill would reasonably be expected to look for a solution to the problem facing the inventor.” *In re Wood*, 599 F.2d 1032, 1036 (CCPA 1979). Examiner asserts that based upon common sense, the field of the references and/or the problem the inventor was concerned about, that the cited prior art references would have been utilized by a skilled artisan in the art,

as all prior art references relate to evaluating bids based upon component attributes of the bids.

Applicant attempts to differentiate the present invention from Aycock by stating that the cited portion of Aycock pertains to values provided by an "evaluation team" while the values in the present invention are provided by "the vendor." Applicant also argues that the inputting of information "by the respective bidders in their bids is a critical predicate for a valid reference."

However, the claims are silent concerning which party is providing information to the system. As such, the broadest definition for the term was applied as to provide the "broadest reasonable interpretation consistent with the specification during the examination of a patent application since the applicant may then amend his claims." *See In re Prater and Wei*, 162 USPQ 541, 550 (CCPA 1969).

As an aside, whether the information was inputted by a vendor rather than an evaluation team pertains to intended use. Examiner asserts that the recitation of the intended use or purpose of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use or fulfilling said purpose, then it meets the claim. *Ex parte Masham*, 2 USPQ2d 1647 (1987).

Applicant argues that there "is no facility in the use of Jones' radar chart to compare competing bids, nor is there a suggestion of such an application."

First, in response to the Applicant's assertion that there "is no facility in the use of Jones' radar chart to compare competing bids", Examiner asserts that such is piecemeal analysis of the references. "One cannot show non-obviousness by attacking references individually where, as here, the rejections are based on combinations of references." *In re Keller, Terry, and Davies*, 208 USPQ 871, 882 (CCPA 1981). In the instant case, Applicant refutes each prior art reference individually, rather than viewing them in combination, in light of the totality of their combined teachings.

Second, in response to the Applicant's assertion there is no "suggestion of such an application", the Courts have stated that "[a] suggestion, teaching, or motivation to combine the relevant prior art teachings does not have to be found explicitly in the prior art, as the teaching, motivation, or suggestion may be implicit from the prior art as a whole, rather than expressly stated in the references...The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art... there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn*, 78 USPQ2d 1329, 1336 (CAFC 2006). Examiner asserts that he can and/or has provided such "articulated reasoning" to support the legal conclusion of obviousness.

Applicant asserts that the "Examiner has not indicated why this bar chart in Light would be connected by one skilled in the art to the Jones 'radar chart' in order to generate the claimed display."

Jones' radar chart demonstrates that multiple data sets (e.g. bids) can be simultaneously displayed on a graphical display. Each data set is comprised of component attributes. The graphical display has a plurality of axes, albeit the axes are not parallel. Each axis measures the value of a component attribute. (see pp. 85 – 87).

Light's bar chart demonstrates that each data set (e.g. bids) is comprised of component attributes. The graphical display has a plurality of axes, specifically equidistant, parallel axes. Each axis measures the value of a component attribute. (see fig. 5).

In combination, Light and Jones teach the graphical display as claimed by the Applicant.

Applicant argues that "Jones itself teaches against such a distortion of its 'radar chart' because of the very purpose of the chart." However, while Jones may not address the instant combination, not addressing is different than "teaching away" as defined by the Courts. The Courts have stated that "[a] reference may be said to teach away when a person of ordinary skill, upon reading the reference,...would be led in a direction divergent from the path that was taken by the Applicant." *Tex Air, Inc. v. Denso Mfg. Mich. Inc.*, 192 F.3d 1353, 1360, 52 USPQ2d, 1298 (Fed. Cir. 1999).

Applicant asserts that "Friesen's display forecloses the possibility of a display of 'bid lines'". Examiner only cited Friesen as Friesen's graphical display to demonstrate that tagging and filtering of lines on a graphical display is old and well known in the art. The presence of "bid lines" were established by other cited prior art references.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASON M. BORLINGHAUS whose telephone number is (571)272-6924. The examiner can normally be reached on Monday - Friday; 9am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James A. Kramer can be reached on (571)272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James A. Kramer/  
Supervisory Patent Examiner, Art Unit 3693

/Jason M Borlinghaus/  
Examiner, Art Unit 3693  
February 16, 2009